

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

FIELDTURF USA, INC., a Florida
corporation; FIELDTURF TARKETT, INC.,
a Canadian corporation,

Plaintiffs,

v.

ASTROTURF, LLC., a Michigan limited
liability company,

Defendant.

Civil Action No. 2:10-cv-12492-SJM-MJH

Hon. Stephen J. Murphy, III.

Magistrate Judge Michael J. Hluchaniuk

**PLAINTIFFS' EX PARTE MOTION AND MEMORANDUM IN SUPPORT OF
MOTION FOR LEAVE TO FILE RESPONSE BRIEF IN EXCESS OF 20 PAGE LIMIT**

Plaintiffs FieldTurf USA, Inc. and FieldTurf Tarkett, Inc. ("FieldTurf"), by and through their undersigned counsel, hereby respectfully move pursuant to E.D. Mich. LR 7.1(d)(3)(A) for leave to file a response brief in opposition to Defendant's Motion For Sanctions (D.I. 93) that exceeds the 20 page limit. In support of this ex parte motion, FieldTurf states as follows:

1. On October 20, 2011, AstroTurf filed a motion for sanctions that was accompanied by twenty-five exhibits, including deposition testimony for no less than five witnesses, totaling 309 pages. Although the exact relief sought by the motion is unclear, AstroTurf purports in various places throughout its brief to request a litany of sanctions including a finding that the asserted '412 patent is unenforceable; piercing the attorney-client privilege as to FieldTurf's former counsel; piercing the attorney-client privilege as to FieldTurf's current counsel; implementing adverse inferences against FieldTurf at trial; precluding FieldTurf from defending against AstroTurf's claims of patent invalidity; precluding FieldTurf from offering

evidence and/or argument at trial on a broad set of undefined issues; precluding FieldTurf from offering certain testimony at trial; and awarding certain costs and fees to AstroTurf. AstroTurf's motion also mentions a desire to hold an evidentiary hearing as to certain alleged conduct by witnesses in this case. FieldTurf denies the allegations set forth in the motion and will oppose all requested relief.

2. The Court acknowledged that AstroTurf's Motion for Sanctions requests "drastic remedies" and "makes broad allegations of misconduct by FieldTurf that stretch back nearly twenty years." (D.I. 106, at 2.)

3. Because AstroTurf's Motion for Sanctions involves numerous and broad arguments, many of which FieldTurf believes to be misrepresentations of the record, these arguments require additional pages to address completely.

4. FieldTurf therefore seeks leave to file a response brief containing no more than 30 pages, and will strive to keep the memorandum as short as reasonably possible given the circumstances.

WHEREFORE, FieldTurf respectfully requests that the Court grant its Motion and allow FieldTurf to file a response brief that exceeds the page limit. A proposed order is filed concurrently with this Motion and Memorandum.

Dated: November 22, 2011

Respectfully submitted,

FIELDTURF USA, INC., a Florida corporation;
and FIELDTURF TARKETT, INC., a Canadian
corporation,

By: /s/ Derek J. Sarafa
Derek J. Sarafa (P-58077)
WINSTON & STRAWN LLP
35 West Wacker Drive
Chicago, IL 60601
Phone: (312) 558-5600
Facsimile: (312) 558-5700
Email: dsarafa@winston.com

CERTIFICATE OF SERVICE

I hereby certify that on November 22, 2011, I caused to be electronically filed Plaintiffs' Ex Parte Motion And Memorandum In Support Of Motion For Leave To File Response Brief In Excess Of 20 Page Limit and this Certificate of Service with the Clerk of the Court using the ECF System, which will send notification of such filing to the following:

Thomas E. Bejin (P56854)
Kristin L. Murphy (P57284)
RADER, FISHMAN & GRAUER, PLLC
39533 Woodward Avenue
Bloomfield Hills, MI 48304
Phone: 248-594-0600
Fax: 248-594-0620
E-mail: teb@raderfishman.com
E-mail: klm@raderfishman.com

By: /s/ Kevin E. Warner
Kevin E. Warner